



**Testimony of**  
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**On Behalf of the**  
**National Association of Home Builders**  
**Before the**  
**Subcommittee on Workforce Protections**  
**House Committee on Education and the Workforce**  
**On**  
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## Introduction

Mr. Chairman, Ranking Member, and members of the Subcommittee, on behalf of the more than 220,000 members of the National Association of Home Builders (NAHB), I would like to thank you for the opportunity to testify before you today on the issue of Occupational Safety and Health Administration (OSHA) reform and to further express the housing industry's support for efforts to address some of the most frequent concerns our members have when dealing with the OSHA inspection and citation process. My name is David Pressly and I am the First Vice President of NAHB and a home builder and developer of both single family homes and apartments in Statesville, North Carolina. I will be the President of NAHB in 2006.

Meaningful OSHA reform remains one of the housing industry's legislative priorities – just as it ranks highly for so many other small businesses across the United States. In recent years, OSHA has significantly increased its inspection activities in the home building industry, and the process by which many of those inspections were undertaken has raised concerns from our members about OSHA's enforcement practices and procedures. We believe that there are several ways in which we can improve OSHA's procedures that would make regulatory compliance more cost-effective and make OSHA more user friendly for small businesses, while improving housing affordability and continuing to protect the safety of workers in the home building industry. We applaud the efforts of Chairman Norwood to promote several pieces of procedural reform legislation that were approved by the full House Education and the Workforce Committee in April, and look forward to the opportunity to discuss other ideas for procedural and process reforms.

Mr. Chairman, let me begin by saying that home builders not only acknowledge a legal and moral obligation to provide their employees with a safe workplace, they share the concerns of this committee, as well as OSHA, to ensure the health and safety of all men and women employed in the home building industry. Further, we share the same ultimate goal of ensuring a safe working environment. Builders know that creating a safe work environment makes good business sense. It is no secret that safety saves lives—and money. Builders have

learned that the money saved through reduced workers' compensation costs, lost time due to worker injuries, and less time spent on accident claims and reports can be converted to improvements in the way they operate their businesses, including the management of safety and health on the jobsite. It is also no surprise that a safe jobsite is also the key to retaining good employees. The building industry anticipates that we will need to build almost 18 million new homes during the next decade. The continuing increase in the demand for housing will create almost 1 million new jobs in the residential construction industry. As a small business owner, I know that taking the health and safety of my employees seriously is not only my moral obligation, but also one of the best ways I have of recruiting and retaining good employees.

#### About the Home Building Industry

NAHB is a building trade association that represents more than 220,000 member companies nationwide. Our membership consists of builders and remodelers of single-family homes, townhomes, apartments, and condominiums, as well as thousands of specialty trade contractors. A vast majority of NAHB's members are classified as "small businesses" and our members employ approximately 8 million people nationwide. Our association's builder members will construct about 80 percent of the more than 1.8 million new housing units projected for 2005, making housing one of the largest engines of economic growth in the country. Our members provide Americans the opportunity to realize the American dream of homeownership.

The home building industry continues to be one of the most heavily regulated industries in the nation, which is a significant reason why home ownership is beyond the reach of many Americans. Currently, small businesses in the United States bear a disproportionate share of the cost of our nation's regulatory burden. According to the Small Business Administration, federal regulations cost small businesses 60 percent more per employee than it costs large businesses, and compliance with these existing regulations can be very costly – averaging \$7,000 per employee. In our industry, a sizeable share of these

regulations comes from OSHA, and the costs imposed by OSHA regulations are financially onerous to every aspect of the home building industry.

The majority of the home building industry is comprised of very small businesses. Over 80 percent of NAHB's member's build fewer than 25 homes per year and more than half build fewer than 10 homes per year. A typical NAHB member firm is truly a small business, employing fewer than 10 workers.

In most small home building companies the owner is the president or chief executive officer. Many businesses are a family affair with husband and wife teams, brothers, sisters, or kids frequently involved in the business. Many times, owners employ only a few workers and view them as family, regularly working in the same conditions as their employees. The staff and owners at these small companies also wear many hats, such as: investor—responsible for funding construction projects; salesman—meeting with prospective home buyers; purchasing manager—in charge of ordering construction materials and supplies; marketing manager—promoting the company and its products; accountant—ensuring creditors and employees are paid; construction manager—ensuring that the home gets built on time and within budget; and even construction worker—swinging the hammer to ensure a quality product.

Many small home builders are often puzzled by the complexity and range of OSHA requirements imposed upon them. Most small construction firms do not have a full-time safety professional to implement the array of regulations because it is simply not possible or economically feasible for these small businesses. They use their limited resources to prevent recognized and serious jobsite hazards, such as falls, excavations/trenching, electrical safety and improving other worker safety and health concerns. A safe and productive workforce is crucial to any company, particularly a small one, and it should be stressed again that these employers want jobsites free of dangerous hazards.

As a small business owner, I am concerned for the safety and health of my workers—my company's most important asset. I have brought with me today a copy of my own company's safety and health plan. I understand the importance of providing our employees

safety orientation and ongoing safety awareness training, and I am not alone. Tens of thousands of home builders across the nation also recognize the value of providing a safe construction site for their workers.

### Alternative to More Regulation

NAHB supports alternatives to the regulatory approach for ensuring worker safety, and we have been successful in collaborating with OSHA in a variety of voluntary endeavors to advance jobsite safety throughout the home building industry.

Similar to our efforts with the Environmental Protection Agency to improve the storm water permitting program and with the U.S. Fish and Wildlife Service to enhance its methods for designating critical habitat under the Endangered Species Act, we believe that our collaborative efforts with OSHA have helped our home builders work more safely, which has saved them time and money—savings which builders can then pass on to home buyers. Some of the collaborative efforts between NAHB and OSHA that have had a positive impact on construction safety in the home building industry include:

- Participation in the OSHA Alliance program, where NAHB and OSHA have combined its collective resources and focused its attention on addressing the safety educational needs of the home building industry workforce. This Alliance has been vitally important to increasing the awareness at OSHA, and among OSHA inspectors, of the differences between residential and commercial construction jobsites, and the often crucial differences between “best practices” at residential vs. commercial build sites.
- Participation on the OSHA Crane and Derrick Negotiated Rulemaking Advisory Committee (C-DAC), which has helped us to ensure that OSHA better understands how this revised regulation will impact the home building industry.
- Participation in OSHA’s Harwood Training Grant program, which has allowed NAHB to provide valuable safety training, for free, at our local home building associations to nearly 1500 home builders and trade contractors. Participating in this program has

given us a greater ability to reach some of our very small builders, who otherwise would have no access to organized OSHA training opportunities. Additionally, this program has helped us to target the growing Hispanic workforce in our industry. As many of the small businesses in our industry will tell you, it is vitally important that the training and safety materials we provide reach the non-English speaking employee population. NAHB is working hard to get Spanish-language safety materials out to our builder members, and we continue to urge OSHA to do more to ensure that their inspectors and safety materials can target this population.

- Participation on the OSHA's Advisory Committee on Construction Safety and Health (ACCSH), which has opened line of direct communication for home builders with OSHA and has ensured that home builders' viewpoints and opinions are taken into account prior to OSHA issuing construction safety regulations.
- Participation in the OSHA Partnership program by our local associations, which has improved communication between our members and OSHA and has had a positive impact on construction safety in our industry.

NAHB is not an opponent of safety regulations, as long as these safety regulations are practical, feasible, cost-effective, and improve worker safety, but we believe that more can be accomplished working collectively—through non-regulatory efforts—to improve worker safety in our industry.

We believe that collaborative efforts with OSHA have helped improve the regulatory environment so it is effective, but not inefficient, and has ensured that construction jobsites are safer than ever. The hope is that these collaborative efforts will continue far into the future.

#### Need for OSHA Reform Legislation

NAHB believes that additional efforts are required to fix OSHA's inspection and citation process. For example, one of the most pressing issues among our members is the lengthy amount of time that often occurs between an inspection and the receipt of a citation.

The Occupational Safety and Health (OSH) Act directs OSHA to issue violation citations with “reasonable promptness” following a site inspection, but allows OSHA to issue citations up to 6 months following any violation found during a jobsite inspection. In addition, any citation issued by OSHA includes a timeframe for correcting the alleged violation.

Far too often in our industry, OSHA utilizes all of the allowable six months to issue a citation. NAHB believes that allowing OSHA up to 6 months to issue a citation creates uncertainty for home builders and does not improve safety of workers. I would like to offer an example of how OSHA has issued citations to our members:

- Home builders have received citations from OSHA 5 months & 28 days after the jobsite inspection. Typically, a house takes approximately 90 days to build. In this scenario, OSHA has issued a citation and proposed a date to abate the alleged violation, although the house is no longer under construction and legally turned over to home owner.

A review of, and changes to, the OSHA citation process would improve jobsite safety by allowing for prompt notification AND correction of any jobsite hazards discovered during an OSHA inspection. If OSHA issues a citation nearly 6 months after the jobsite inspection, how “serious” can the alleged violation be if it takes this much time to notify the builder of a potential jobsite hazard? It does no good to issue a citation months after the home is completed, when the site is no longer operating, and the opportunity to alert the employees and site supervisors to the hazard—and how to correctly fix the hazard—no longer exists. OSHA must realize that, in the residential construction industry, time is of the essence. In order for a builder to appropriately correct a violation, and re-train the employees who might have committed the infraction, OSHA must be required to issue the citations in a more timely manner.

In addition, if a company receives an OSHA citation, OSHA requires a response from employers within 15 days for contesting citations. Often, small businesses have too much on their plate and inadvertently miss the 15 day deadline or even misplace paper work, further

delaying a response to OSHA. In these circumstances where the 15 day deadline has passed, the small business owners have no recourse to contest OSHA citations. We support Chairman Norwood's legislation, H.R. 739, and any legislation that would provide flexibility on the 15-day contest period if the missed deadline was the result of a mistake, inadvertence, surprise, or excusable neglect.

The imbalance of OSHA utilizing 6 months to issue a citation, while employers must contest any citation within 2 weeks is not only unfair to employers, but most importantly does not improve safety on the job. NAHB believes that OSHA procedural reforms would go a long way to ensure that small businesses are able to contest OSHA citations and any proposed penalties by leveling the playing field and by making OSH Act easier to understand.

In addition, NAHB supports another procedural OSHA reform that could improve jobsite safety in our industry. Prompt notification, in the form of a written summary at the conclusion of the OSHA inspection. This would provide timely notice to home builders of potential safety hazards and allow them to correct and hazard or violation quickly. The alternative to a written summary after the inspection of for builders to wait several weeks, and possibly up to 6 months, for OSHA to issue citations notifying them of the nature of a violation found during the inspection. Employers have a right to know about any potential hazards discovered by OSHA on the jobsite, without any delay. This full disclosure by OSHA following an inspection, and before they leave the jobsite, would allow for the timely abatement of safety hazards by home builders, which provides the desired protection to construction workers.

Additionally, we strongly believe that OSHA should be required to provide employers with all of the necessary information to help them understand the OSHA citation procedures. Employers should be given clear, plain-English information on how the citation process works, what their rights are to contest any citations they receive, and how the process of contesting the citation takes place, including the procedures undertaken at the OSH Review Commission (OSHRC). Finally, all employers should be provided with a list of contacts at the local or regional OSHA office, so that they can call with questions about their inspection



or citations. We believe that this type of procedural reform, though small, is an important step towards helping our small business employers who are so often intimidated and confused by the OSHA inspection and citation process.

### Conclusion

In conclusion, I would like to reiterate that the members of NAHB are committed to worker safety and health. We urge Congress to review the OSHA citation and inspection process, and make changes that will ensure fair and consistent OSHA enforcement practices in the home building industry.

NAHB is firmly committed to OSHA reform in the 109th Congress. We intend to work with the members of the appropriate committees and others in the House of Representatives to deliver meaningful, responsible OSHA reform legislation to President Bush for enactment as soon as possible.

I thank the Chairman and Members of the Subcommittee for allowing me the opportunity to testify on behalf of the 220,000 member firms of NAHB. We look forward to working with this committee, the Congress, and the administration to pass needed OSHA reform.

Thank you.